

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

JAMIE LOCKETT,)	
)	
Movant,)	
)	
v.)	No. 1:13-CV-54-RWS
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MEMORANDUM AND ORDER OF TRANSFER

This matter is before the Court upon the motion of Jamie Lockett to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. Because this is movant’s second § 2255 motion, and there is no indication he received appellate-court permission to file this action, the Court will transfer this case to the United States Court of Appeals for the Eighth Circuit.

Background

On December 17, 2007, after pleading guilty to one count of distributing cocaine base, the Court sentenced movant to 188 months’ imprisonment to be followed by 4 years’ supervised release. *See United States v. Lockett*, No. 1:-07-CR-108 RWS (E.D. Mo.). Movant did not file a direct appeal.

Movant seeks relief from his conviction and sentence on the sole ground that

the United States Supreme Court's decision in *Begay v. United States*, 553 U.S. 137 (2008), constitutes a substantive change in the law that should be retroactively applied to his sentence.

Discussion

The Court's records show that movant previously brought a motion for relief under 28 U.S.C. § 2255, which this Court denied on the merits on September 17, 2012. *See Lockett v. United States*, No. 1:12-CV-144-RWS (E.D.Mo). The Eighth Circuit Court of Appeals denied movant's application for a certificate of appealability and dismissed the appeal. *Lockett v. U.S.*, No. 12-3600 (8th Cir. 2013). The instant action was filed on April 1, 2013. Movant does not allege, nor does it appear, that he previously obtained permission from the Eighth Circuit to bring the instant § 2255 motion in this Court.

As amended by the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), 28 U.S.C. § 2255 now provides that a "second or successive motion must be certified . . . by a panel of the appropriate court of appeals" to contain certain information. Title 28 U.S.C. § 2244(b)(3)(A) provides that "[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application."


Because movant did not obtain permission from the Eighth Circuit Court of Appeals to maintain the instant § 2255 motion in this Court, the Court lacks authority to grant movant the relief he seeks. Rather than dismiss this action, the Court will deny movant relief, without prejudice, and transfer the motion to the United States Court of Appeals for the Eighth Circuit pursuant to 28 U.S.C. § 1631. *See In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997); *Coleman v. United States*, 106 F.3d 339 (10th Cir. 1997); *Liriano v. United States*, 95 F.3d 119, 122-23 (2d Cir. 1996).

Therefore,

IT IS HEREBY ORDERED that the instant motion to vacate is **DENIED**, without prejudice, because movant did not obtain permission from the United States Court of Appeals for the Eighth Circuit to bring the motion in this Court. *See* 28 U.S.C. § 2255.

IT IS FURTHER ORDERED that the Clerk shall **TRANSFER** this case to the United States Court of Appeals for the Eighth Circuit pursuant to 28 U.S.C. § 1631.

Dated this 26th day of April, 2013.


UNITED STATES DISTRICT JUDGE